

This bill is modeled on language in the Presidential Policy Directive issued in 2012. That directive, PPD 19, provided whistleblower protections to intelligence community employees who are not covered by the Whistleblower Protection Act.

□ 1530

This bill will provide a more consistent approach for employees who handle classified information by ensuring that employees who are covered by the Whistleblower Protection Act will blow that whistle to a supervisor, the same way that intelligence community employees who are covered by PPD 19 can do so.

This is a good bill. I urge my colleagues to support it, and I yield back the balance of my time.

Mr. RUSSELL. Mr. Speaker, I would like to thank Ranking Member CUMMINGS, Mr. FARENTHOLD of Texas, and Mr. LYNCH of Massachusetts for their great bipartisan support in this needed reform, and I urge my colleagues to support my bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oklahoma (Mr. RUSSELL) that the House suspend the rules and pass the bill, H.R. 2196, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ALL CIRCUIT REVIEW ACT

Mr. RUSSELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2229) to amend title 5, United States Code, to provide permanent authority for judicial review of certain Merit Systems Protection Board decisions relating to whistleblowers, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2229

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “All Circuit Review Act”.

SEC. 2. JUDICIAL REVIEW OF MERIT SYSTEMS PROTECTION BOARD DECISIONS RELATING TO WHISTLEBLOWERS.

(a) IN GENERAL.—Section 7703(b)(1)(B) of title 5, United States Code, is amended by striking “During the 5-year period beginning on the effective date of the Whistleblower Protection Enhancement Act of 2012, a petition” and inserting “A petition”.

(b) DIRECTOR REVIEW.—Section 7703(d)(2) of such title is amended by striking “During the 5-year period beginning on the effective date of the Whistleblower Protection Enhancement Act of 2012, this paragraph” and inserting “This paragraph”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

Oklahoma (Mr. RUSSELL) and the gentleman from the District of Columbia (Ms. NORTON) each will control 20 minutes.

The Chair recognizes the gentleman from Oklahoma.

GENERAL LEAVE

Mr. RUSSELL. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. RUSSELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I speak in support of H.R. 2229, the All Circuit Review Act, which Ranking Member CUMMINGS of Maryland and Mr. FARENTHOLD of Texas introduced earlier this year. It is critical that we guarantee whistleblowers have access to fair and efficient reviews of their claims of retaliation.

Between 1982 and 2012, whistleblowers could only appeal retaliation rulings made against them by the Merit Systems Protection Board, or the MSPB, to the Federal circuit. That monopoly led to the Federal circuit shaping key interpretations of whistleblower protection law without a check by any of the other circuit courts.

In 2012, to the wide acclaim of the whistleblower community, the Whistleblower Protection Enhancement Act ended the Federal circuit court's monopoly over whistleblower retaliation appeals. The result, as expected, was better case law and more expeditious appeals.

As a pilot program, that expansion was set to expire 3 years after enactment. In 2014, Congress acted to extend the program until November of this year. Now, this highly effective program will expire next month unless it is renewed. The whistleblower community has benefited tremendously from the pilot program. There is no good argument against making this permanent.

Critics had feared that expanding jurisdiction over the MSPB appeals would lead to a torrent of cases for those circuits, swamping dockets across the Nation. Those fears have proved to be unfounded. Instead, the whistleblower community has benefited from other circuits having an opportunity to interpret Federal whistleblower case law.

H.R. 2229 makes the all circuit expansion permanent, ensuring the benefits of the pilot program continue. This bipartisan initiative will put the question of appeal jurisdiction for whistleblower retaliation cases to rest once and for all.

Mr. Speaker, I urge my colleagues to support this bill, and I reserve the balance of my time.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, September 22, 2017.

Hon. TREY GOWDY,
Chairman, Committee on Oversight and Government Reform, Washington, DC.

DEAR CHAIRMAN GOWDY: I write with respect to H.R. 2229, the “All Circuit Review Act.” As a result of your having consulted with us on provisions within H.R. 2229 that fall within the Rule X jurisdiction of the Committee on the Judiciary, I forego any further consideration of this bill so that it may proceed expeditiously to the House floor for consideration.

The Judiciary Committee takes this action with our mutual understanding that by foregoing consideration of H.R. 2229 at this time, we do not waive any jurisdiction over subject matter contained in this or similar legislation and that our committee will be appropriately consulted and involved as this bill or similar legislation moves forward so that we may address any remaining issues in our jurisdiction. Our committee also reserves the right to seek appointment of an appropriate number of conferees to any House-Senate conference involving this or similar legislation, and asks that you support any such request.

I would appreciate a response to this letter confirming this understanding with respect to H.R. 2229 and would ask that a copy of our exchange of letters on this matter be included in the Congressional Record during floor consideration of H.R. 2229.

Sincerely,

BOB GOODLATTE,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,

Washington, DC, September 22, 2017.

Hon. BOB GOODLATTE,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CHAIRMAN: Thank you for your letter regarding H.R. 2229, the All Circuit Review Act. As you noted, certain provisions of the bill fall within the jurisdiction of the Committee on the Judiciary. I appreciate your willingness to forego action on the bill in the interest of expediting this legislation for floor consideration. I agree that foregoing consideration of the bill in no way diminishes or alters the jurisdiction of the Committee on the Judiciary with respect to the appointment of conferees or to any future jurisdictional claim over the subject matters contained in the bill or any similar legislation.

I will include a copy of our letter exchange on H.R. 2229 in the bill report filed by the Committee on Oversight and Government Reform, as well as in the Congressional Record during floor consideration, to memorialize our understanding.

Thank you for your assistance with this matter.

Sincerely,

TREY GOWDY.

Ms. NORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the All Circuit Review Act.

This week the House is considering several bills to strengthen protections for whistleblowers. This is a bipartisan bill introduced by Oversight and Government Reform Committee Ranking Member CUMMINGS and Representative BLAKE FARENTHOLD.

This bill would help level the playing field for whistleblowers by making permanent a pilot program that allows

Federal whistleblowers to file appeals in courts where they work or live rather than in the Federal Circuit Court of Appeals.

The Federal circuit has a terrible track record on whistleblower cases. Allowing other courts around the country to hear whistleblower cases will provide a check on the monopoly the Federal circuit has held for many years.

The bill would also authorize the Office of Personnel Management to appeal a decision of the Merit Systems Protection Board to any appeals court with jurisdiction.

This bill was listed on the Project On Government Oversight's list of legislative reforms Congress should enact in 2017. Protecting whistleblowers is not a partisan issue. It is a patriotic issue. Mr. Speaker, I hope my colleagues will support this bipartisan legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. RUSSELL. Mr. Speaker, I reserve the balance of my time.

Ms. NORTON. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. CUMMINGS), ranking member of the full Oversight and Government Reform Committee.

Mr. CUMMINGS. Mr. Speaker, I want to thank the gentlewoman for yielding.

I introduced the All Circuit Review Act, Mr. Speaker, to send a clear message to all Federal employees who blow the whistle on wrongdoing that we here in Congress have their backs.

This bill would give Federal employees who face retaliation for blowing the whistle a more equitable playing field when they challenge that retaliation in court. Under the bill, whistleblowers could file appeals in the jurisdictions where they work or live, rather than having to file appeals in the Federal Circuit Court of Appeals in Washington, D.C. Whistleblowers who live outside of Washington, D.C., should have the same opportunities as those who live in Washington.

I want to thank Representative BLAKE FARENTHOLD for cosponsoring this bill with me. Representative FARENTHOLD has been a steadfast supporter of this basic due process right for Federal employees.

The bill we are considering today makes permanent a pilot provision that was included in the Whistleblower Protection Enhancement Act, which was signed into law in 2012. That pilot provision will expire in November if we do not send this bill to the President before then.

Without this bill, whistleblowers could appeal a decision of the Merit Systems Protection Board only to the U.S. Court of Appeals for the Federal Circuit. The Federal circuit has historically been overly restrictive of whistleblower rights.

According to the Merit Systems Protection Board, 29 cases have been appealed to courts other than the Federal circuit since 2012. The Project On Gov-

ernment Oversight sent a letter to the Oversight and Government Reform Committee on May 2, 2017, in strong support of this bill. Executive Director Danielle Brian wrote as follows: "The pilot program has been a success. It has not resulted in a flood of whistleblower appeals as opponents of the program asserted it would do, and it allows for potential circuit splits, which encourage sister circuits to review the laws and allows for possible Supreme Court review. It is working exactly as intended and should be made permanent before it expires in November 2017."

The bill was approved by the Oversight and Government Reform Committee without opposition in May. Two years ago, Congress approved an extension of the All Circuit Review Extension Act pilot program in 2014 without a single negative vote.

Mr. Speaker, I urge my colleagues to support the whistleblower bill.

Mr. RUSSELL. Mr. Speaker, I reserve the balance of my time.

Ms. NORTON. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. RUSSELL. Mr. Speaker, I wish to thank Chairman GOWDY for his support of this legislation, and for the hard work of Ranking Member CUMMINGS of Maryland and Mr. FARENTHOLD of Texas for all that they have done to bring this needed bill to the floor.

Mr. Speaker, I urge adoption of the bill, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oklahoma (Mr. RUSSELL) that the House suspend the rules and pass the bill, H.R. 2229.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

FREDERICK DOUGLASS BICENTENNIAL COMMISSION ACT

Mr. RUSSELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2989) to establish the Frederick Douglass Bicentennial Commission, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2989

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Frederick Douglass Bicentennial Commission Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Born into slavery on the Eastern Shore of Maryland in 1818 and given the name Frederick Augustus Washington Bailey after his mother Harriet Bailey, Frederick Douglass has been called the father of the civil rights movement.

(2) Douglass rose through determination, brilliance, and eloquence to shape the Amer-

ican Nation. He was an abolitionist, human rights and women's rights activist, orator, author, journalist, publisher, and social reformer.

(3) Taught basic reading skills by his mistress until she was forced to stop, Douglass continued to teach himself to read and write and taught other slaves to read despite risks including death.

(4) During the course of his remarkable life Frederick Douglass escaped from slavery, became internationally renowned for his eloquence in the cause of liberty, and went on to serve the national government in several official capacities.

(5) Forced to leave the country to avoid arrest as an escaped slave, he returned to become a staunch advocate of the Union cause and helped recruit African-American troops for the Union Army, including two of his sons, Charles and Lewis Douglass. His personal relationship with Abraham Lincoln helped persuade the President to make emancipation a cause of the Civil War.

(6) With the abolition of slavery at the close of the Civil War, Douglass then turned his attention to the full integration of African-Americans into the political and economic life of the United States. Committed to freedom, Douglass dedicated his life to achieving justice for all Americans, in particular African-Americans, women, and minority groups. He envisioned America as an inclusive Nation strengthened by diversity and free of discrimination.

(7) Douglass served as an advisor to Presidents. Abraham Lincoln referred to him as the most meritorious man of the nineteenth century. Douglass was appointed to several offices. He served as the United States Marshal of the District of Columbia under Rufus B. Hayes' administration; President James Garfield appointed Douglass the District of Columbia Recorder of Deeds. In 1889, President Benjamin Harrison appointed Frederick Douglass to be the United States minister to Haiti. He was also appointed by President Grant to serve as Assistant Secretary of the Commission of Inquiry to Santo Domingo.

(8) Douglass lived in the District of Columbia for 23 of his 57 years as a free man, and in recognition of his leadership and continuous fight for justice and freedom, his home, Cedar Hill, was established as a National Historic Site in Anacostia, in Southeast Washington, DC.

(9) The statue of Frederick Douglass in the United States Capitol is a gift from the almost 700,000 residents of the District of Columbia.

(10) All Americans could benefit from studying the life of Frederick Douglass, for Douglass dedicated his own life to ensuring freedom and equality for future generations of Americans. This Nation should ensure that his tireless struggle, transformative words, and inclusive vision of humanity continue to inspire and sustain us.

(11) The year 2018 marks the bicentennial anniversary of the birth of Frederick Douglass, and a commission should be established to plan, develop, and carry out, and to recommend to Congress, programs and activities that are fitting and proper to celebrate that anniversary in a manner that appropriately honors Frederick Douglass.

SEC. 3. ESTABLISHMENT.

There is established a commission to be known as the Frederick Douglass Bicentennial Commission (referred to in this Act as the "Commission").

SEC. 4. DUTIES.

The Commission shall have the following duties:

(1) To plan, develop, and carry out programs and activities that are fitting and